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NEWS RELEASE

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Justice Kennedy Joins Call for New Judgeships for Eastern California Court

SAN FRANCISCO – United States Supreme Court Justice Anthony M. Kennedy has added his voice to the chorus of elected officials, bar and business leaders, and private citizens urging Congress to move swiftly to fill vacancies on the federal bench and to authorize additional judgeships for those courts struggling to contend with massive caseloads.

Justice Kennedy discussed both topics in remarks to the closing session of the 2010 Ninth Circuit Judicial Conference, held earlier this month in Hawaii. He focused in particular on the beleaguered U.S. District Court for the Eastern District of California. Judges of the Sacramento/Fresno-based court have the heaviest caseloads in the country, three times larger than the national average.

“We have five active judges and the statistics tell us we need 15,” Justice Kennedy said of the Eastern District of California, which is authorized six judgeships but has been operating with one vacant judgeship for more than 18 months.

“Our committed, dedicated, brilliant federal judges (in the district) are struggling with this caseload ... their dedication must be recognized,” the justice said.

Two bills currently pending in Congress would provide the Eastern District of California with four permanent judgeships and one temporary judgeship with a term of 10 years, extendable to 14 years. S. 1653, the Federal Judgeship Act of 2009, is a national judgeship bill, while H.R. 2961 pertains specifically to the Eastern District of California.

California Senators Dianne Feinstein and Barbara Boxer are cosponsors of S. 1653 and have strongly supported the Eastern District of California in its quest for more judges.

Chief District Judge Anthony W. Ishii of the Eastern District of California said he and his fellow judges were heartened by Justice Kennedy's remarks.

"By adding his well respected voice to previous calls for judicial relief from lawyers, citizens, the media, the judiciary and other public officials, we hope that Congress will heed the almost universal call for the passage of a new judgeship bill for our district," Judge Ishii said.

The vacancy on the Eastern District of California bench dates back to December 31, 2008, when District Judge Frank C. Damrell, Jr., took senior status. Kimberly J. Mueller, now a federal magistrate judge in Sacramento, has been awaiting confirmation to the vacant judgeship since May 6, 2010, when the Senate Judiciary Committee approved her nomination.

Noting the lagging pace of judicial confirmations, Justice Kennedy questioned whether the confirmation process is "working the way it should be."

"It would be of immense importance for the bar and the academy to look at how well we are doing," he said in urging lawyers and law schools to collaborate on empirical studies not only of the confirmation process but of important matters of law and procedure. Such studies could lead to identifying "neutral" principles and standards that could be relied upon by both parties during the confirmation process, he said.

The Eastern District of California takes in slightly more than half of the state geographically and serves some 6.7 million people. It is home to 19 state and federal prisons, whose inmates are the source of an inordinate number of the court's filings. Since 2005, the district has had the heaviest per-judge caseload of any federal court in the United States. The district last received a new judgeship in 1990, a temporary position that expired in 2004.

The Eastern District of California has been receiving assistance from sister courts in the Ninth Circuit for almost two years. The effort has involved nearly 90 judges from other federal trial courts and the U.S. Court of Appeals for the Ninth Circuit, who have resolved hundreds of cases which might otherwise have languished on the docket. Despite notable successes, new case filings continue to outpace case terminations in the Eastern District, resulting in an overload that will persist until the caseload can be shared among an adequate number of resident district judges.

The Ninth Circuit consists of the U.S. Court of Appeals for the Ninth Circuit and the district and bankruptcy courts and related court units for 15 federal judicial districts in nine western states and two Pacific Island jurisdictions.